

TABLE OF CONTENTS

	<u>PAGE</u>
PART I <u>SUPPLEMENTAL DEATH BENEFITS</u>	2
1. Supplemental Death Benefits:.....	2
PART II <u>DISABILITY BENEFITS</u>	2
2. Performance of Duty Disability - Pre-1987 Benefit System:	2
3. Performance of Duty Disability - 1987 Benefit System:	3
4. Non-Performance of Duty Disability - Pre-1987 Benefit System:	4
5. Non-Performance of Duty Disability - 1987 Benefit System:.....	4
6. Performance of Duty - Catastrophic Injury - Pre-1987 Benefit System:.....	5
7. Performance of Duty - Catastrophic Injury - 1987 Benefit System:	5
PART III <u>GENERAL PROVISIONS REGARDING DISABILITY BENEFITS</u>	6
8. General Provisions Applicable to Pre-1987 Benefit System:	6
9. General Provisions Applicable to 1987 Benefit System:.....	6
10. Contributions during Disability:	7
11. Life and Health Coverage while Disabled:	7
PART IV <u>LINE OF DUTY DEATH BENEFITS</u>	7
12. General Provisions Applicable to Pre-1987 Benefit System:	7
13. General Provisions Applicable to 1987 Benefit System:.....	7
14. Dependent Child Benefit:	8
15. Surviving Spouse Benefit:	8
16. Dependent Parents Benefit:.....	8

PART V	<u>INVESTMENTS</u>	8
17.	Investment of the Fund:	8
18.	Use of Investments:	9
19.	Reporting:	9
20.	Determination of Value:	9
PART VI	<u>LIQUIDATION</u>	9
21.	Liquidation:	9
PART VII	<u>SUBROGATION AND REIMBURSEMENT RIGHTS</u>	10
22.	Right of Subrogation and Reimbursement:	10
23.	Funds To Which Subrogation and Reimbursement Rights Apply:	10
24.	Agreement to Hold Recovery in Trust:	10
25.	Disclaimer of Make Whole Doctrine:	10
26.	Disclaimer of Common Fund Doctrine:	11
27.	Obligations of the Covered Person:	11
28.	Police Benefit Fund's Right to a Subrogation:	11
29.	Enforcement of Police Benefit Fund's Right to Reimbursement:	11
30.	Withholding of Payments for Benefits:	11
31.	Failure to Comply:	11
32.	Future Claims Excluded:	12
33.	Discretionary Authority of Plan Administrator:	12
PART VIII	<u>MISCELLANEOUS</u>	12
34.	Pension Consultants:	12
35.	Trustee Expenses:	12

36.	Indemnification:	12
37.	Reliance:	12
38.	Construction and Disputes:	13
39.	Governing Law - Nature of Police Benefit Fund:	13
PART IX	<u>DEATH AND DISABILITY FUND</u>	14
40.	Establishment of Employee Death and Disability Fund:	14
PART X	<u>AMENDMENT</u>	14
41.	Amendment of Agreement:	14

#699932 V10 - INDIANA STATE POLICE-SUPPLEMENTAL AGREEMENT

DEPARTMENT OF STATE POLICE
SUPPLEMENTAL TRUST AGREEMENT
(POLICE BENEFIT FUND)
(EMPLOYEE DEATH AND DISABILITY FUND)

Restated – September 1, 2002

DEPARTMENT OF STATE POLICE
SUPPLEMENTAL TRUST AGREEMENT

(Restated – September 1, 2002)

(POLICE BENEFIT FUND)

(EMPLOYEE DEATH AND DISABILITY FUND)

THIS AGREEMENT is an amendment and complete restatement, effective as of September 1, 2002, of the Agreement originally made and entered into the first day of July, 1937, as subsequently restated by and between the Department of State Police of Indiana (hereinafter referred to as the "Department"), and the Treasurer of the State of Indiana (hereinafter referred to as the "Trustee").

WITNESSETH:

WHEREAS, the Department is a division of the Indiana State Government with its principal office at Indianapolis, Indiana, and the Department desires to continue the Police Benefit Fund, and to incorporate certain changes as authorized by statute; and

WHEREAS, the Department desires to continue the Employee Death and Disability Fund; and

WHEREAS, the Trustee is an officer of the State of Indiana with full power to act as Trustee and with its principal office and place of business at Indianapolis, Indiana; and

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the Parties hereto agree as follows:

The Trustee will continue to act as Trustee of the Police Benefit Fund established pursuant hereto and will receive and hold in trust, manage, invest and reinvest any money paid to it as such Trustee in accordance with the terms and provisions of this Supplemental Trust Agreement.

The Police Benefit Fund has been established to provide supplementary death benefits to the beneficiaries or estates of deceased Employee Beneficiaries, disability benefits, and payments on behalf of Employees killed in the line of duty. The Police Benefit Fund shall consist of voluntary contributions from the Department, fees, awards, and any other payments or contributions made to the Police Benefit Fund by the State of Indiana or by any other person or persons, firm or corporation, and the income and proceeds derived from the investment thereof.

The Employee Death and Disability Fund has been established to provide additional death and disability benefits. The Employee Death and Disability Fund shall consist of employee contributions and the income and proceeds derived from the investment thereof.

The capitalized terms used in this Supplemental Trust Agreement shall have the same meaning as defined in the Department of State Police of Indiana Pension Trust Agreement, entered into by and between the Department and the Trustee, originally effective the first day of July, 1937, and as most recently amended effective the first day of September 1, 2002 (the "Pension Trust").

PART I

SUPPLEMENTAL DEATH BENEFITS

1. Supplemental Death Benefits: All Employees shall be furnished supplemental death benefits in an amount established from time to time by the Pension Advisory Board, but not to exceed fourteen thousand five hundred dollars (\$14,500) (or such other amount as may be authorized by statute and approved by the Pension Advisory Board), the cost of which shall be totally paid by the Police Benefit Fund. All Employee Beneficiaries who retire after twenty (20) Years of Service shall be entitled to have the supplemental death benefit coverage in an amount not to exceed fourteen thousand five hundred dollars (\$14,500) (or such other amount as may be authorized by statute and approved by the Pension Advisory Board) continued for the balance of their lives by the Police Benefit Fund at no cost to such retirees. Supplemental death benefits furnished by the Police Benefit Fund may be paid directly from the assets of the Police Benefit Fund or this liability may be reinsured in a life insurance company selected and approved by the Department and authorized to operate in the State of Indiana. Eligible Employee Beneficiaries may designate a beneficiary for such life insurance coverage in a manner prescribed by the Department.

PART II

DISABILITY BENEFITS

2. Performance of Duty Disability – Pre-1987 Benefit System: In the event an Employee who is participating in the Pre-1987 Benefit System incurs a disability through the performance of duty (as determined by the Pension Advisory Board), the Employee or the Employee's beneficiary or estate shall be entitled to receive from the Police Benefit Fund reimbursement for all travel, medical, surgical and hospital expense directly resulting from such disability incurred before the Employee's death.

In addition thereto, the Employee shall be entitled to receive monthly payments from the Police Benefit Fund which shall commence one (1) month after payment of his last regular wages from the Department and shall continue until the earliest of the date: (1) disability no longer exists, (2) death occurs, (3) retirement occurs, or (4) the Employee is credited with thirty-four (34) Years of Service. The amount of monthly disability payment shall be determined

by the Pension Advisory Board in accordance with the extent of disability. Effective July 1, 2002, with respect to an Employee who was participating in the Pre-1987 Benefit System immediately prior to his disability, disability payments shall be based on the possibility of twenty (20) Years of Service and on a maximum of one-half ($\frac{1}{2}$) of the average monthly salary received, or to be received, during the highest paid consecutive twelve (12) months, plus twenty dollars (\$20), except that any moneys received in excess of the Third Year Trooper Salary shall not be considered as a part of the average. However, in no event shall the disability payments exceed the basic monthly pension amount to which an Employee Beneficiary would be entitled at Normal Retirement Age under the Pension Trust.

In the event an Employee shall become totally disabled in the performance of duty (as determined by the Pension Advisory Board), he shall, in addition to the monthly disability pension payment provided for herein, and for the same period as such payment, receive from the Police Benefit Fund forty dollars (\$40) per month for each dependent parent and each dependent minor child less than eighteen (18) years of age.

Provided however, an Employee shall not be eligible for the benefits described in this Section if they have entered the DROP.

3. Performance of Duty Disability – 1987 Benefit System: In the event an Employee who is participating in the 1987 Benefit System incurs a disability through the performance of duty (as determined by the Pension Advisory Board), the Employee or the Employee's beneficiary or estate shall be entitled to receive from the Police Benefit Fund reimbursement for all travel, medical, surgical and hospital expense directly resulting from such disability incurred before the Employee's death.

In addition thereto, the Employee shall be entitled to receive monthly payments from the Police Benefit Fund which shall commence one (1) month after payment of his last regular wages from the Department and shall continue until the earliest of: (1) the date disability no longer exists, (2) the date death occurs, (3) the date retirement occurs, or (4) the later of the date the Employee is credited with twenty-five (25) Years of Service with the Department or the date the Employee has received all sick pay benefits and long-term disability insurance payments that are available to him (but not to exceed two such years). The amount of monthly disability payments shall be determined by the Pension Advisory Board in accordance with the extent of disability. Effective July 1, 2002, with respect to an Employee who was participating in the 1987 Benefit System immediately prior to his disability, disability payments shall be based on the possibility of twenty-five (25) Years of Service and on a maximum of one-half ($\frac{1}{2}$) of his Average Monthly Salary. However, in no event shall the disability payments exceed the basic monthly pension amount to which an Employee Beneficiary would be entitled at Normal Retirement Age under the Pension Trust.

In the event an Employee shall become totally disabled in the performance of duty (as determined by the Pension Advisory Board), he shall, in addition to the monthly disability pension payment provided for herein, and for the same period as such payment, receive from the

Police Benefit Fund forty dollars (\$40) per month for each dependent parent and each dependent minor child less than eighteen (18) years of age.

Provided however, an Employee shall not be eligible for the benefits described in this Section if they have entered the DROP.

4. Non-Performance of Duty Disability – Pre-1987 Benefit System: In the event an Employee who is participating in the Pre-1987 Benefit System shall become disabled for any cause not directly attributable to performance of duty, the Employee shall be entitled to receive from the Police Benefit Fund monthly payments of an amount in accordance with the extent of disability (as determined by the Pension Advisory Board). With respect to an Employee who was participating in the Pre-1987 Benefit System immediately prior to his disability, disability payments shall be based on the possibility of twenty (20) Years of Service and on a maximum of one-half ($\frac{1}{2}$) of the average monthly salary received, or to be received, during the highest paid consecutive twelve (12) months, plus twenty dollars (\$20), except that any moneys received in excess of the Third Year Trooper Salary shall not be considered as a part of the average. However, the amount of monthly disability payment determined hereunder shall not exceed the basic pension amount to which an Employee Beneficiary would be entitled at Normal Retirement Age as determined under the Pre-1987 Benefit System. Such payments shall continue until the earliest of: (1) the date disability no longer exists, (2) the date death occurs, (3) the date retirement occurs, (4) the date the Employee is credited with thirty-four (34) Years of Service, or (5) a period of time longer than the number of months the person was an Employee of the Department prior to disability.

Provided however, an Employee shall not be eligible for benefits under this Section if they have entered the DROP.

5. Non-Performance of Duty Disability - 1987 Benefit System: In the event an Employee who is participating in the 1987 Benefit System shall become disabled for any cause not directly attributable to performance of duty, the Employee shall be entitled to receive from the Police Benefit Fund monthly payments of an amount in accordance with the extent of disability (as determined by the Pension Advisory Board). With respect to an Employee who was participating in the 1987 Benefit System immediately prior to his disability, disability payments shall be based on the possibility of twenty-five (25) Years of Service and on a maximum of one-half ($\frac{1}{2}$) of his Average Monthly Salary. However, the amount of monthly disability benefit determined hereunder shall not exceed the basic monthly pension amount to which an Employee Beneficiary would be entitled at Normal Retirement Age as determined under the 1987 Benefit System. Such payments shall continue until the earliest of: (1) the date disability no longer exists, (2) the date death occurs, (3) the date retirement occurs, or (4) the later of the date the Employee is credited with twenty-five (25) Years of Service with the Department or the date the Employee has received all sick pay benefits and long-term disability insurance payments that are available to him (but not to exceed two such years).

Provided however, an Employee shall not be eligible for benefits under this Section if they have entered the DROP.

6. Performance of Duty - Catastrophic Injury – Pre-1987 Benefit System: Effective July 1, 2002, the disability benefits for a regular, paid police employee who is participating in the Pre-1987 Benefit System immediately prior to his disability and is permanently and totally disabled by a catastrophic personal injury that (1) is sustained in the line of duty after January 1, 2001, and (2) permanently prevents the Employee from performing any gainful work, shall be determined under this Section. An Employee that meets the requirements of this Section (as determined by the Pension Advisory Board) shall receive a disability pension equal to the Employee's regular salary at the commencement of the disability. The disability pension provided under the terms of this Section is provided instead of the monthly disability pension payment set forth in Section 2. The disability pension provided under this Section shall be increased at a rate equal to any salary increases the Employee would have received if the Employee remained in active service. The disability benefit payment shall continue to be paid in this amount until the earlier of (1) the Employee's death, or (2) such time as the Employee would have attained thirty-four (34) Years of Service, at which time the disability payment payable shall be equal to the sum of (i) one-half ($\frac{1}{2}$) of what the Employee's average monthly wages would have been during the highest paid consecutive twelve (12) months prior to such time as the Employee would have attained thirty-four (34) Years of Service, had the Employee remained in active service (provided that the wages to be used in the calculation shall not exceed the Third Year Trooper Salary as of the date the Employee would have attained thirty-four (34) Years of Service) (the "basic amount"), (ii) twenty dollars (\$20), and (iii) an amount equal to seventy percent (70%) of the basic amount.

In addition, the child or spouse of an Employee who has been permanently and totally disabled by a catastrophic personal injury that was sustained in the line of duty and permanently prevents the Employee from performing any gainful work before, on, or after July 1, 2002 may not be required to pay tuition or mandatory fees at any state supported college, university, or technical school, if (1) the child is less than twenty-three (23) years of age and is a full-time student pursuing a prescribed course of study, or (2) the spouse is pursuing a prescribed course of study toward an undergraduate degree.

Provided however, an Employee shall not be eligible for benefits under this Section if they have entered the DROP.

7. Performance of Duty - Catastrophic Injury - 1987 Benefit System: Effective July 1, 2002, the disability benefits for a regular, paid police employee who is participating in the 1987 Benefit System immediately prior to his disability and is permanently and totally disabled by a catastrophic personal injury that (1) is sustained in the line of duty after January 1, 2001, and (2) permanently prevents the Employee from performing any gainful work, shall be determined under this Section. An Employee that meets the requirements of this Section (as determined by the Pension Advisory Board) shall receive a disability pension equal to the Employee's regular salary at the commencement of the disability. The disability pension provided under the terms of this Section is provided instead of the monthly disability payment set forth in Section 3. The disability pension provided under this Section shall be increased at a

rate equal to any salary increases the Employee would have received if the Employee remained in active service. The disability benefit payment shall continue to be paid in this amount until the earlier of (1) the Employee's death, or (2) such time as the Employee would have attained twenty-five (25) Years of Service, at which time the disability payment payable shall be equal to one-half (½) of what the Employee's Average Monthly Salary would have been had the Employee remained in active service.

In addition, the child or spouse of an Employee who has been permanently and totally disabled by a catastrophic personal injury that was sustained in the line of duty and permanently prevents the Employee from performing any gainful work before, on, or after July 1, 2002 may not be required to pay tuition or mandatory fees at any state supported college, university, or technical school, if (1) the child is less than twenty-three (23) years of age and is a full-time student pursuing a prescribed course of study, or (2) the spouse is pursuing a prescribed course of study toward an undergraduate degree.

Provided however, an Employee shall not be eligible for the benefits under this Section if they have entered the DROP.

PART III

GENERAL PROVISIONS REGARDING DISABILITY BENEFITS

8. General Provisions Applicable to Pre-1987 Benefit System: Disability payments once granted to an Employee Beneficiary in the Pre-1987 Benefit System shall not be increased (except when percent of disability is increased by the Pension Advisory Board) but neither shall the same decrease (except when percent of disability is decreased by the Pension Advisory Board), except that maximums (as established by the Superintendent) shall be recomputed whenever the Third Year Trooper Salary changes, and the Employee Beneficiary shall be paid any resultant increases.

Notwithstanding the preceding paragraph, disability benefits paid in the case of a catastrophic injury in accordance with Section 6 shall be increased subject to the provisions of that Section.

9. General Provisions Applicable to 1987 Benefit System: Disability payments once granted to an Employee Beneficiary in the 1987 Benefit System shall not be increased (except when percent of disability is increased by the Pension Advisory Board) but neither shall the same decrease (except when percent of disability is decreased by the Pension Advisory Board). Notwithstanding the preceding sentence, the Employee Beneficiary's Average Monthly Salary, for purposes of benefit calculations under Section 3 or Section 5 of this Supplemental Agreement, shall be initially based on the Employee's Beneficiary's status at the time of his disability, and thereafter shall be increased by changes to the Employee's Beneficiary's status on the matrix and by changes to the salary on the matrix (as established by the Superintendent). In the event there is such a change, the benefit shall be recomputed annually based on the prior 36 month Average Monthly Salary as of the beginning of each fiscal year, and the Employee

Beneficiary shall be paid any resultant increase, subject to any Internal Revenue Code limitations.

Notwithstanding the preceding paragraph, disability benefits paid in the case of a catastrophic injury in accordance with Section 7 shall be increased subject to the provisions of that Section.

10. Contributions during Disability: All authorized deductions made under the authority of this Supplemental Agreement and under the authority of the Pension Trust Agreement shall be withheld from any disability payment during disability status; provided that such amounts shall cease to be withheld when the Employee Beneficiary is deemed to have retired for purposes of the Pension Trust, and further provided, effective July 1, 2002, that no employee retirement pension contributions shall be withheld from any disability pension payments during disability status.

11. Life and Health Coverage while Disabled: Premiums for basic supplemental life, medical, vision, and dental insurance maintained for disabled Employee through the Indiana State Police Health Care Plan and Life Insurance Plan shall be paid from the Police Benefit Fund, pursuant to the insurance policies and programs.

PART IV

LINE OF DUTY DEATH BENEFITS

In the event an Employee dies as a direct result of injury or illness incurred in the line of duty (as determined by the Pension Advisory Board), his surviving spouse, dependent children, dependent parent or parents, shall be entitled to receive payments under this Part from the Police Benefit Fund. This Part shall also apply to an Employee during any period of DROP participation.

12. General Provisions Applicable to Pre-1987 Benefit System: The maximum monthly pension amount payable to dependent mothers, dependent fathers and surviving spouses of an Employee Beneficiary in the Pre-1987 Benefit System shall not exceed the current basic monthly pension amount paid to retirees as determined by the Pension Advisory Board under the provisions of the Pension Trust Agreement, and shall cease with the last payment prior to death. The maximum monthly pension amount payable to each dependent unmarried child shall not exceed thirty percent (30%) of the then current basic monthly pension amount paid to retirees as determined by the Pension Advisory Board under the provisions of the Pension Trust Agreement, and shall cease with the last payment prior to the child's death, the child's marriage or the child's nineteenth (19th) birthday, whichever occurs first, except the total monthly pension amount paid to all dependent unmarried children of any such Employee Beneficiary shall not exceed the current basic monthly amount paid to retirees.

13. General Provisions Applicable to 1987 Benefit System: The maximum monthly amount payable to dependent mothers, dependent fathers and surviving spouses of an

Employee Beneficiary in the 1987 Benefit System shall not exceed the current basic monthly pension amount paid to retirees, as determined by the Pension Advisory Board, under the provisions of the Pension Trust Agreement, and shall cease with the last payment prior to death. The maximum monthly amount payable to each dependent unmarried child shall not exceed thirty percent (30%) of the current basic monthly pension amount paid to retirees that would have been payable as determined by the Pension Advisory Board under the provisions of the Pension Trust Agreement, and shall cease with the last payment prior to the child's death, the child's marriage or the child's nineteenth (19) birthday, whichever occurs first, except the total monthly pension amount paid to all dependent unmarried children of any such Employee Beneficiary shall not exceed the current basic monthly pension amount paid to retirees.

14. Dependent Child Benefit: Provided that each unmarried dependent child who is nineteen (19) years of age or over but under twenty-three (23) years of age shall be eligible to receive the pension determined under Section 12 or Section 13 while enrolled as a full-time student in a school, college or university. Provided further that such dependent children, married or unmarried, shall be eligible to attend any Indiana state-supported college or university tuition free.

15. Surviving Spouse Benefit: Provided further, that any surviving spouse eligible to receive a Joint and 100% Survivor pension under the applicable provisions of the Pension Trust Agreement, shall, in addition to said Joint and 100% Survivor pension amount, be entitled to receive a surviving spouse's monthly pension amount as provided by Section 12 or Section 13 of this Supplemental Agreement, as amended from time to time, payable in an Actuarially Equivalent amount commencing as early as one (1) month after the death of the Employee Beneficiary.

16. Dependent Parents Benefit: Payments to a dependent parent or parents shall be determined by the Pension Advisory Board in accordance with the extent of dependency, and only in the event there is no eligible surviving spouse. Such payments shall begin one (1) month after the death of the Employee Beneficiary and continue as long as either parent survives and remains dependent upon the source of revenue, as determined by the Pension Advisory Board.

PART V

INVESTMENTS

17. Investment of the Fund: Subject to the provisions of IC 10-1-2-2 and 10-2-2-2.5, the Trustee, with the approval of the Department and the Pension Advisory Board, shall invest the Police Benefit Fund assets with the care, skill, prudence, and diligence that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character with like aims and shall also diversify such investments in accordance with prudent investment standards. The Trustee shall maintain a written investment policy governing the investment and reinvestment of the Police Benefit Fund.

18. Use of Investments: Subject to the limitations set forth in Section 17, the Trustee, with the approval of the Department and the Pension Advisory Board, shall invest, reinvest and manage the Police Benefit Fund for the purpose of, or payment of, the following:

- a. Such investments as the Trustee may be authorized to invest funds in under the laws of the State of Indiana, particularly IC 10-1-2-2.5.
- b. Stocks and other securities.
- c. Annuities for Employee Beneficiaries.
- d. Payments authorized to be made by the terms of this Supplemental Trust Agreement.
- e. Current operating expenses authorized by the Department.

19. Reporting: The Trustee, with the assistance of the Pension Consultants, shall, within ninety (90) days after the close of each fiscal year, prepare and file with the Department and the State Board of Accounts a detailed annual report showing receipts, disbursements, and the assets of the Police Benefit Fund, listing investments at current market value as of the end of the fiscal year.

20. Determination of Value: The Gross Value and the Net Value of the Police Benefit Fund shall be determined in the same manner as the Gross Value and the Net Value of the Pension Fund, as set out in the Pension Trust.

PART VI

LIQUIDATION

21. Liquidation:

- a. The Police Benefit Fund may be liquidated at any time by the Department and shall be liquidated in the event of liquidation of the Pension Trust.
- b. The liquidation of the Police Benefit Fund shall be under the direction and supervision of the Pension Consultants and the Indiana Insurance Department, and subject to the terms and conditions of the Pension Trust.
- c. If this Supplemental Agreement is terminated, the assets of the Police Benefit Fund shall be used as follows:
 - i. Pensions and payments shall be continued to persons then receiving same, either directly or by purchase of annuities from eligible life

insurance companies yielding as nearly as possible the maximum monthly amounts payable to the persons then receiving same.

ii. Any balance of the Police Benefit Fund remaining after the payments provided for in (i) of this Section shall revert to the Pension Trust and be administered in accordance with the terms thereof.

PART VII

SUBROGATION AND REIMBURSEMENT RIGHTS

22. Right of Subrogation and Reimbursement: The Police Benefit Fund has the right to full subrogation and reimbursement of travel, medical, surgical and hospital expenses paid by the Police Benefit Fund to, or on behalf of an Employee, spouse, dependent mother, dependent father, or dependent child (herein referred to as "Covered Person") for which a third party is allegedly responsible. The Police Benefit Fund shall have a lien against such funds, and the right to impose a constructive trust upon such funds, and shall be reimbursed therefrom.

23. Funds To Which Subrogation and Reimbursement Rights Apply: The Police Benefit Fund's subrogation and reimbursement rights apply if the Covered Person receives, or has the right to receive, any sum of money, regardless of whether it is characterized as amounts paid for medical expenses or otherwise, paid or payable from any person, plan, or legal entity that is legally obligated to make payments as a result of a judgment, settlement, or otherwise, arising out of any act or omission of any third party (whether a third party or another Covered Person under the Police Benefit Fund): (a) who is allegedly wholly or partially liable for costs or expenses incurred by the Covered Person, in connection for which the Police Benefit Fund provided benefits to, or on behalf of, such Covered Person; or (b) whose act or omission allegedly caused injury or illness to the Covered Person, in connection for which the Police Benefit Fund provided benefits to, or on behalf of, such Covered Person.

24. Agreement to Hold Recovery in Trust: If a payment is made under the Police Benefit Fund, and the person to or for whom it is made recovers monies from a third party described in Section 23 as a result of settlement, judgment, or otherwise, that person shall hold in trust for the Police Benefit Fund the proceeds of such recovery and reimburse the Police Benefit Fund to the extent of its payments.

25. Disclaimer of Make Whole Doctrine: The Police Benefit Fund has the right to be paid first and in full from any settlement or judgment, regardless of whether the Covered Person has been "made whole." The Police Benefit Fund's right is a first priority lien. The Police Benefit Fund's right shall continue until the Covered Person's obligations hereunder to the Police Benefit Fund are fully discharged, even though the Covered Person does not receive full compensation or recovery for his/her injuries, damages, loss or debt. This right to subrogation pro tanto shall exist in all cases.

26. Disclaimer of Common Fund Doctrine: The Covered Person shall be responsible for all expenses of recovery from such third parties or other persons, including but not limited to, all attorneys' fees incurred in collection of such third-party payments, or payments by other persons. Any attorneys' fees and/or expenses owed by the Covered Person shall not reduce the amount of reimbursement due to the Police Benefit Fund.

27. Obligations of the Covered Person: The Covered Person shall furnish any and all information and assistance requested by the Department or the Pension Advisory Board. If requested, the Covered Person shall execute and deliver to the Department or Pension Advisory Board a subrogation and reimbursement agreement before or after any payment of benefits by the Police Benefit Fund. The Covered Person shall not discharge or release any party from any alleged obligation to the Covered Person or take any other action that could impair the Police Benefit Fund's rights to subrogation and reimbursement without the written authorization of the Department or the Pension Advisory Board.

28. Police Benefit Fund's Right To Subrogation: If the Covered Person or anyone acting on his or her behalf has not taken action to pursue his or her rights against a third party described in Section 22 above or any other persons to obtain a judgment, settlement or other recovery, the Department or Pension Advisory Board or their designee, upon giving thirty (30) days' written notice to the Covered Person, shall have the right to take such action in the name of the Covered Person to recover that amount of benefits paid under the Police Benefit Fund; provided, however, that any action taken without the consent of the Covered Person shall be without prejudice to such Covered Person.

29. Enforcement of Police Benefit Fund's Right to Reimbursement: If a Covered Person fails or refuses to comply with these provisions by reimbursing the Police Benefit Fund as required herein, the Police Benefit Fund has the right to impose a constructive trust over such any and all funds received by the Covered Person, or as to which the Covered Person has the right to receive. The Police Benefit Fund, through the Department or Pension Advisory Board, has the authority to pursue any and all legal and equitable relief available to enforce the rights contained in this Part, against any and all appropriate parties who may be in possession of the funds described herein.

30. Withholding of Payments for Benefits: The Police Benefit Fund may withhold payment of benefits when a party other than the Covered Person or the Police Benefit Fund may be liable for expenses until liability is legally determined. In the event that any payment is made under the Police Benefit Fund for which any party other than the Covered Person or the Police Benefit Fund may be liable, the Police Benefit Fund shall be subrogated to all rights of recovery of the Covered Person to the extent of payments by the Police Benefit Fund and shall have the right to be reimbursed as set forth in this Part.

31. Failure to Comply: If a Covered Person fails to comply with these requirements, the Covered Person shall not be eligible to receive any benefits, services or payments under the Police Benefit Fund until there is compliance regardless of whether such benefits are related to the act or omission of such third party or other persons.

32. Future Claims Excluded: If the Covered Person receives any sum of money described in Section 23 above, the Police Benefit Fund shall have no further obligation to pay benefits relating in any way to the injuries for which the Covered Person receives such sum of money, and charges incurred for such services shall be excluded.

33. Discretionary Authority of Plan Administrator: The Police Benefit Fund, through the Department or Pension Advisory Board, shall have full discretionary authority to interpret the provisions of this Part, and to administer and pursue the Police Benefit Fund's subrogation and reimbursement rights.

PART VIII

MISCELLANEOUS

34. Pension Consultants: The Trustee shall at all times contract with Pension Consultants, with the approval of the Department and the Pension Advisory Board, to assist and supervise the operation of the Police Benefit Fund. The terms of employment and compensation of the Pension Consultants shall be provided in such contract.

35. Trustee Expenses: The Trustee shall be reimbursed from the trust assets for any extraordinary service or out-of-pocket expense necessarily and properly incurred by it in the administration of the trust, subject to the approval of the Department and the Pension Advisory Board. The Trustee shall receive no compensation for its services hereunder.

36. Indemnification: Neither the Trustee, the Department, the Pension Advisory Board, the Pension Consultants, nor their representatives, shall be liable for any error of judgment, mistake or omission made in good faith, but only for negligence or willful misconduct in the performance of their duties hereunder.

37. Reliance: The Pension Consultants and the Trustee shall be entitled to rely upon statements of the Department or its representatives as to the following matters: the amount paid into the Employee Death and Disability Fund by Employees and Employee Beneficiaries; the ages of Employee Beneficiaries and their dependents; whether or not Employees were on the payroll of the Department on stated dates; the length of time Employees have been on the payroll of the Department; and wages paid by the Department to Employees.

The Department and Pension Consultants shall be entitled to rely on the statements of the Trustee or its representative as to the amount held in and the amount paid from the Police Benefit Fund and the Employee Death and Disability Fund, to any persons whomsoever.

Parties hereto shall be entitled to rely upon any statement contained in any Employee's Application and Authorization Form.

A statement shall be deemed to have been made by the Department, Pension Advisory Board, Trustee or the Pension Consultants if it shall be signed by one of their respective executive officers or any person authorized to sign such statements by one of their respective executive officers.

Any statement shall be deemed to have been made by the Trustee provided it shall be signed by the Treasurer of State or by any person authorized by the Treasurer of State to sign such statement.

38. Construction and Disputes: It is not intended that the Trust created by this Agreement shall be administered by or under the supervision of any court; but in the event that any party hereto shall apply to a court for a construction hereof, or for direction as to the duties or rights of any party hereunder, then in any such event, such application shall be made to any court of competent jurisdiction sitting in the State of Indiana and having jurisdiction of the subject matter, and such court shall have jurisdiction to issue such order, decree or judgment as the equity of the case may require. In the event of any such proceeding or proceedings being instituted, it shall not be necessary to make a party or to serve process upon any Employee Beneficiary, or any person claiming by, through or under any Employee Beneficiary or former Employee Beneficiary, whether resident or nonresident of the State of Indiana, but it shall be sufficient to publish such notice of the institution of said suit in two (2) newspapers of general paid circulation in the county in which such proceedings are instituted, as the court may direct. If in any such proceedings the court shall determine that the Pension Consultants are improperly performing its functions hereunder, the Trustee shall have the right to select successor Pension Consultants with the approval of the Department and the Pension Advisory Board and such successor shall perform the functions agreed hereunder to be performed by the Pension Consultants.

39. Governing Law - Nature of Police Benefit Fund: The Trust arising under the operation hereof shall constitute a Trust under the laws of the State of Indiana, and this Agreement shall be construed by the applicable laws of Indiana.

a. It is understood and agreed that inasmuch as Employee Beneficiaries are required to make no payments into the Police Benefit Fund neither they, nor any person claiming by, through, or under them shall have any vested right in or to the Police Benefit Fund, nor any claim against any party hereto or representatives thereof, including the Pension Consultants and the Pension Advisory Board. Any suggestions or grievances, however, may be presented to the Pension Advisory Board for proper review and consideration, and its decision shall be final and binding upon all parties to the fullest extent permitted by law, unless the decision is contrary to the terms of this Agreement.

b. The Police Benefit Fund shall not be commingled with any funds representing authorized deductions from the salary or wages of Employees of the Department, but shall be accounted for and operated as a separate and distinct fund from the Pension Fund and the Employee Death and Disability Fund.

PART IX

DEATH AND DISABILITY FUND

40. Establishment of Employee Death and Disability Fund:

a. Subject to the approval of the Trustee, there is hereby authorized and created a separate and distinct fund to be known as the Employee Death and Disability Fund which shall be accounted for and operated separately from the Police Pension Fund and the Police Benefit Fund. The Employee Death and Disability Fund shall consist of the necessary authorized deductions from the salary and wages of Employees of the Department for insurance premiums, heretofore made and hereafter made in accordance with the wage assignment laws of the State. The Employee Death and Disability Fund shall also consist of any necessary authorized premium payments from retired Employee Beneficiaries.

b. Said fund shall be used for the purpose of providing insurance benefits separate from that provided by the Police Benefit Fund. Any Employee may apply for additional insurance benefits (as made available) in an amount established from time to time by the Pension Advisory Board, the cost of which shall be totally paid by the Employee at a rate per month determined by the Pension Advisory Board for each one thousand dollars (\$1,000) of coverage, and this contribution shall be deducted from the Employee's salary by the Department pursuant to the terms of the wage assignment laws of the State and the Application and Authorization Form. All such deductions shall be credited to the Employee Death and Disability Fund. The Employee Death and Disability Fund shall also consist of any necessary authorized premium payments from retired Employee Beneficiaries.

c. The Department shall maintain separate accounting records for each Employee and Employee Beneficiary participating in the Employee Death and Disability Fund and no part of said fund shall be commingled with the Police Pension Fund or Police Benefit Fund.

PART X

AMENDMENT

41. Amendment of Agreement: This Supplemental Trust Agreement may be changed, altered, or amended in any particular way by the Department upon recommendation of the Pension Consultants, with the consent of the Trustee and with the consent of the majority of the Pension Advisory Board. A copy of any such amendment shall be filed with the Trustee and the Pension Consultants.

